

# HOUSE . . . . . No. 2278

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## The Commonwealth of Massachusetts

PRESENTED BY:

**Theodore C. Speliotis**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to the enhancement of fire and explosion prevention in buildings and structures.

PETITION OF:

NAME:

Theodore C. Speliotis

DISTRICT/ADDRESS:

13th Essex

# The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

## AN ACT RELATIVE TO THE ENHANCEMENT OF FIRE AND EXPLOSION PREVENTION IN BUILDINGS AND STRUCTURES.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. Section 200 of Chapter 6, as appearing in the 2006 Official Edition, is hereby repealed in its entirety.

SECTION 2. Section 201 of Chapter 6 of the General Laws, as so appearing, is hereby repealed in its entirety.

SECTION 3. Section 28 of Chapter 148 of the General Laws, as so appearing in the 2006 Official Edition, is hereby amended by adding, after subsection 3, the following new subsection:-  
“(4) to provide for the safe keeping, handling, and use of any material and the associated chemical processes used in any building or structure to prevent fire, explosion, or toxic hazards.”

SECTION 4. Section 31 of Chapter 148 of the General Laws is hereby amended by inserting after the word “thereunder” the following words:-

“or any matter which the marshal has determined, in the marshal’s sole judgment, is appealable to the Fire Prevention Regulations Appeals Board established pursuant to section 5 of Chapter 22D.”

SECTION 5. Chapter 22D of the General Laws, as so appearing, is hereby amended by adding the following new section:-

“(5) There is hereby established a Fire Prevention Regulations Appeals Board which shall consist of the Board of Fire Prevention Regulations, established under the provisions of section four. Whoever is aggrieved by any act, rule, order, decision, requirement, direction, or failure to act by any state or local agency charged with the administration or enforcement of the state fire code or its related rules or regulations, may within forty-five days after the service of notice thereof, appeal from said act, rule, order, decision, requirement, direction or failure to act to said appeals board.

Appeals hereunder shall be on a form as provided by the appeals board and shall be accompanied by such fee as said appeals board may determine. The state, city, or town officer in charge of the records and all

other persons in possession or control of such records papers and documents relative to an appeal, shall forthwith, upon request of the appeals board, transmit such papers and documents to said appeals board.

An appeal shall stay all proceedings in the furtherance of the action or failure to act which is the subject of the appeal, unless said enforcement authority presents evidence that a stay would cause imminent peril of life or property.

The chairman of the appeals board shall designate any three members of the appeals board to hold hearing under this section and to hear testimony and take evidence. The appeals board shall not be bound by the strict rules of evidence prevailing in courts of law or equity.

The chairman shall fix the time and place for each hearing and such hearing shall take place not later than sixty days after the filing of such appeal, unless such time is extended by agreement with the appellant. Any such party may appear in person or by agent or attorney at the hearing.

Decisions on appeal shall be made by the three-member appeals board conducting the public hearing. Every decision shall require the concurrence of at least two of the three members and the appeals board shall state in writing its findings of fact, conclusions and reasons for its decision and indicate the vote of each member participating in the decision.

The appeals board shall issue a decision or order reversing, affirming, or modifying, in whole or in part, such interpretation, order or decision or postponing the application thereof, within forty-five days after such hearing, unless such time is extended by agreement with the appellant.

The appeals board may grant a variance from any provision of the state fire code and related rules and regulations, in any particular case, and may determine the suitability of alternate materials and methods of compliance and may provide reasonable interpretations of the provisions of said code consistent with its purpose.”

SECTION 6. Section 4 of Chapter 22D of the General laws as appearing in the 2006 Official Edition, is hereby amended by inserting, in line 5 after the word “marshal,” the following new words:- “the fire commissioner of the City of Boston and the Chairman of the Board of Building Regulations and Standards.”

SECTION 7. Section 4 of Chapter 22D of the General Laws is hereby further amended by striking out in line 8 the word “thirteen” and inserting the new word:- “sixteen”.

SECTION 8. Said section 4 is further amended by striking out in line 18 the word “ten” and inserting the new word: - “thirteen”.

SECTION 9. Section 4 is hereby further amended by adding in line 37 after the word “years” the following new words:- “one whom shall be a member of the sprinkler fitters union, one whom shall be a registered professional engineer, one whom shall be a structural engineer, and one whom shall be a certified building inspector representing the Massachusetts Federation of Municipal Building Inspectors.”

SECTION 10. Section 4 is further amended by striking out the following words in lines 39 and 40 as so appearing, - “such chairman shall act as a non-voting member of said board, except in the case of a tie vote.”

SECTION 11. Section 165 of Chapter 6 of the General Laws, as so appearing, is hereby amended by adding after subsection (6) in the first paragraph a new subsection: -

(7) the establishment of standards and curriculum for all levels of fire inspector certification.

SECTION 12. Section 4 of Chapter 148 of the General Laws, as so appearing, is further amended by adding the following new paragraph:-

“Every fire inspector in a city, town, district, or authority fire department shall be certified in accordance with the requirements established by the Massachusetts Fire Training Council. Each fire department shall have a minimum of one certified fire inspector. Fire inspector certification shall be a condition of receiving a delegation of authority from the Marshal.”

SECTION 13. Section 5 of chapter 148A, as so appearing, is hereby amended by striking out the second sentence in its entirety and replacing it with the following sentence:-

“such city or town shall earmark such fines, penalties or assessments collected for enforcement, training, and education of building inspectors and fire prevention officers including mandatory fire inspector certification.”

SECTION 14. Section 26A½, of chapter 148, as so appearing, is hereby amended by striking out, in lines 21 and lines 33, the words “fire safety commission”, and substituting in place thereof, the following words:- “fire prevention regulation appeals board, as provided in section 5 of chapter 22D.”

SECTION 15. Section 26G of chapter 148, as so appearing, is hereby amended by striking out, in line 39, the words “automatic sprinkler appeals board”, and substituting in place thereof the words:- “fire prevention regulation appeals board, as provided in section 5 of chapter 22D.”

SECTION 16. Section 26G1/2 of chapter 148, as so appearing, is hereby amended by striking out, in lines 62 and 63 the words “automatic sprinkler appeals board as provided in section two hundred and one of chapter 6,” and substituting, in place thereof, the words:- “fire prevention regulation appeals board, as provided in section 5 of chapter 22D.”

SECTION 17. Section 26H of chapter 148, as so appearing, is hereby amended by striking out, in lines 23 and 24 the words “board of appeals of the fire safety commission as provided in section two hundred and one of chapter six ,” and substituting, in place thereof, the words:- “fire prevention regulation appeals board, as provided in section 5 of chapter 22D.”

SECTION 18. Section 26I of Chapter 148 of the General Laws is hereby amended by adding at the end of said section, a new sentence:-

“Whoever is aggrieved by the head of the fire departments interpretation, order, requirement, direction, or failure to act under the provisions of this section, may, within forty five days after the service of notice thereof, appeal from such interpretation, order, requirement, direction, or failure to act, to the Fire Prevention Regulations Appeals Board as provided for in section 5 of Chapter 22D.”

SECTION 19. Section 1 of Chapter 148 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding, after the words “Head of the Fire Department”, the following new definition:- “Highly Hazardous Chemical Process, shall mean any activity involving a highly hazardous chemical process, including any use, storage, mixing and bonding, manufacturing, handling, or the on-site movement of such chemicals, or combination of these activities as determined by the Board of Fire Prevention Regulations established pursuant to section 4, of chapter 22D of the General Laws.”

SECTION 20. Chapter 148 of the General Laws as appearing in the 2006 Official Edition is hereby amended by adding, after section 28B, the following new section:-

107           Section 28C.

- 108           a.     No person shall conduct any highly hazardous chemical process, as defined in  
109                 section 1, without first securing a users certificate therefore from the marshal.  
110                 The marshal may, after notice and an opportunity for a hearing, suspend or revoke  
111                 any such permit for cause. However, the marshal may suspend said permit  
112                 immediately if the continuation of the particular process would constitute an  
113                 immediate threat to public safety. In the event of such immediate suspension, the  
114                 marshal shall cause such reasonable written notice of such suspension to be  
115                 delivered to the facility at the address of record as indicated on said certificate.  
116                 Such notice shall grant the holder the right to a hearing, within fourteen days of  
117                 said suspension, before the marshal or a designee of the marshal relative to the  
118                 administrative action taken.
- 119           b.     The marshal may cause said users certificate to be renewed on a biannual basis  
120                 and shall cause the premises, activities and methods employed by such facility, to  
121                 be inspected for compliance with all applicable regulations and standards relative  
122                 to the highly hazardous chemical process. The marshal may authorize such  
123                 inspection to be conducted by a qualified person. Such qualifications shall be  
124                 determined in accordance with standards established by the marshal.
- 125           c.     The marshal shall charge a fee for the initial issuance of said permit and any  
126                 renewal thereof. The amount of said fee shall be determined annually by the  
127                 Secretary of administration under the provision of section three B of chapter  
128                 seven.
- 129           d.     The marshal shall promulgate rules and regulations relative to the issuance of the  
130                 users certificate, the inspection of such facilities required to hold a users  
131                 certificate, the qualifications of those persons qualified to conduct inspections of  
132                 said facilities and such other matters necessary to carry out the provisions of this  
133                 section.
- 134           e.     The Board of Fire Prevention Regulations, established under section 4 of chapter 22D  
135                 shall promulgate rules and regulations which establish standards relating to highly  
136                 hazardous chemical processes, including any use, storage, mixing, bonding,  
137                 manufacturing, handling, or the on-site movement of such chemicals, or combination of  
138                 these activities, and such other matters necessary to carry out the Board's duties under the  
139                 provisions of this section.
- 140           f.     Every applicant for a certificate under this section shall, as a condition to such issuance,  
141                 provide evidence of valid liability insurance coverage in the form of a certificate issued  
142                 by the insurance agency to the Marshal's office. Said insurance certificate shall list the  
143                 name and claims representative providing general liability coverage in the minimum  
144                 amount of \$1,000,000 per occurrence and \$1,000,000 aggregate coverage. A 30-day  
145                 cancellation notice to the Marshal shall be a condition to the policy. Any insurance  
146                 coverage issued pursuant to this section shall be from a company licensed in the  
147                 Commonwealth of Massachusetts by the Commissioner of Insurance.

148 There shall be a separate fund on the books of the Commonwealth to be known as the  
149 Chemical Process Safety Program Fund. Such fund shall consist of all certification fees  
150 submitted by an applicant under this section, together with any interest thereon, and shall,  
151 in addition to any other monies made available for such purpose, be expended by the  
152 Marshal, without further appropriation, and shall be used solely to support state  
153 oversight, auditing, inspection, training, and enforcement activities related to the  
154 administration of a statewide chemical process safety program. All payments from the  
155 Chemical Process Safety Program Fund shall be made on the audit and warrant of the  
156 State Treasurer on vouchers certified and submitted by the Marshal. Provided, however,  
157 that for the purpose of accommodating timing discrepancies between the receipt of  
158 retained revenues and related expenditures, the Marshal may incur expenses and the  
159 Comptroller may certify for payment, amounts not to exceed the most recent revenue  
160 estimate in the state accounting system.

161 SECTION 21. Section 12 of this Act shall take effect on January 1, 2012. All other provisions  
162 shall be effective 18 months of the date of passage.